

**Deficiencies and Comments Pertaining to New England Ecological Development, Inc.**  
**(N.E.E.D)**  
**(Solid Waste Management Facility)**  
**Johnston, Rhode Island**  
**August 2002**

**Introduction:**

The submitted application is for a license to operate a Transfer Station and Construction and Demolition (C&D) Debris Processing Facility. The license application and operation of this facility is not in compliance with all applicable requirements of the Rhode Island General Laws and Solid Waste Regulations for these types of facility. The application deficiencies and the Department's comments are listed below under the specific state statute or solid waste rule in the Regulations. Within some of the comments listed below, reference is made to the application by page number, section and quotation in italics. For the comments that specifically reference a particular section of the application, the superscripted letters at the beginning of each comment correspond to the letters that are associated with the below documents. The reviewed application includes the following submittals:

- A. Operating and Closure Plan – Volume I, New England Ecological, Inc. Solid Waste Transfer Station and Wood Recovery Building dated August 1997.
- B. Operating Plan – Volume II, New England Ecological Development, Inc. “Re-Tech” Plant/Recyclable Material Storage Cells/Wood Recovery Plant dated August 1997.
- C. Operating and Closure Plan, New England Ecological Development, Inc. Solid Waste Transfer Station dated August 1997, revised August 1999.
- D. Operating Plan, New England Ecological Development, Inc. “Re-Tech” Plant dated April 2001.
- E. Closure Plan, New England Ecological Development, Inc. “Re-Tech” Plant dated April 2001.
- F. Litter Control Plan, New England Ecological Development, Inc. “Re-Tech Plant dated April 2001.
- G. Onsite Monitoring Plan for the New England Ecological Development, Inc. Facility dated January 2002.

## **Section I. General Facility Deficiencies**

R.I.G.L. 23-19-13.1 Any solid waste originating or collected outside of the State of Rhode Island cannot be disposed of at the Central Landfill per this statute.

1. The application does not discuss disposal provisions for out of state waste. The application shall propose disposal provisions for out of state waste.

### Rule 1.2.02 Method of Operation and Powers:

2. The application fails to demonstrate that the facility will be operated in accordance with all requirements and standards set forth in the Rhode Island General Laws Chapters 2-1, 2-22, 2-23, 5-51, 23-18.8, 23-18.9, 23-19, 23-19.1, 23-23, 23-63, 37-15.1, 42-17.1, 42-17.6, 44-27, and 46-12 and all rules and regulations promulgated pursuant to these statutes. The application shall include affirmative evidence of the facility's ability to comply with Rhode Island General Laws Chapters 2-1, 2-22, 2-23, 5-51, 23-18.8, 23-18.9, 23-19, 23-19.1, 23-23, 23-63, 37-15.1, 42-17.1, 42-17.6, 44-27, and 46-12 and all rules and regulations promulgated pursuant to these statutes. This affirmative evidence shall be more than a statement that the Facility has the ability to comply with these statutes. The application shall demonstrate how the Facility has the ability to comply with each of these statutes.

**Rule 1.4.00 Prohibitions** - The application fails to demonstrate that the facility will comply with all requirements specified in Rule 1.4.00 as cited below:

### Rule 1.4.02(a) Surface Water Pollution:

3. The application does not demonstrate how the facility will comply with the State and Federal Clean Water Acts so as to not pollute the surface waters of the State of Rhode Island. The application shall describe the present on-site drainage, proposed drainage, leachate collection and disposal systems, and sedimentation and erosion controls to ensure compliance with this rule. Furthermore, the Facility has not applied for or obtained a RIPDES Permit from the DEM Office of Water Resources as required by the regulatory program. A RIPDES permit is required for this site, given the size of the disturbed areas on the site and storm-water flow from this Facility (non-point contributing source) offsite toward Cedar Swamp Brook and to the Simmons Reservoir.

### Rule 1.4.02(b) Groundwater Pollution:

4. The application does not demonstrate how the facility will comply with the State and Federal Clean Water Acts so as to not pollute the groundwaters of the State of Rhode Island. The application shall describe the present on-site drainage, proposed drainage, leachate collection and disposal systems, the sedimentation and erosion controls and how the operations at the facility will not pollute the groundwater.

Rule 1.4.03(b) Air Standards:

5. The application does not demonstrate how the facility will comply with the State and Federal Clean Air Acts. The application shall demonstrate how the Facility will comply with the Rhode Island state implementation plan pursuant to R.I. Gen. Laws 23-23 *et seq.* The application shall also determine which state and federal air pollution control regulations the NEED Facility is subject to and demonstrate how the Facility will comply with the State Air Pollution Control Act, the federal regulations and the Rhode Island Air Pollution Control Regulations.

Rule 1.4.03(c) Odors:

6. A solid waste management facility or composting facility, whether licensed or unlicensed, shall not emit or cause to be emitted into the atmosphere any air contaminant or combination of air contaminants which creates an objectionable odor beyond the property line of said facility. The Department has issued numerous Notices of Violation (NOVs) pertaining to objectionable odors being emitted from this facility and migrating off-site. The application does not propose measures to prevent objectionable odors beyond the Facility's property lines.

Rule 1.4.05 Facilities Prohibited from Operating:

7. Facilities that accumulate material speculatively or store materials beyond the regulatory and statutory time limits are prohibited from operating under this Rule. The storage of any materials, including the material in the storage cells, on this site beyond the regulatory time limits is speculative accumulation and illegal landfilling. The application shall demonstrate how the facility will store materials in compliance with the time limits in the regulations and statute.

**Rule 1.5.00 General Requirements and Procedures** - Insufficient information was submitted in the application to satisfy all requirements specified in Rule 1.5.00 as cited below:

Rule 1.5.01 Plans and Specifications:

8. The application does not demonstrate the ability of NEED to comply with all General Operating Standards set forth in Rule 1.7.00 and the general requirements of Rule 1.5.00. In addition, the application fails to submit plans and specifications in compliance with Regulations Number 3 (Transfer Stations and Collection Stations) and 7 (Facilities that Process Construction and Demolition Debris). The application shall provide plans and specifications that address all of the specific deficiencies for these Rules as noted herein.

Rule 1.5.03 Documentation of Ownership:

9. The application does not include documentation of ownership as required by Rule 1.5.03. The application shall include a list of the direct and indirect owners of the facility and the underlying real property, whether individual, partnership, corporation, or other form of organization. If a corporation, the list shall include all officers, directors and other persons owning ten percent (10%) or more of the corporate stock. In the event that a person other than the owner of the underlying real property or of the facility is responsible for the

operation of facility, then the above information shall be provided for each such person.

**Rule 1.5.04 Certification:**

- 10.** The application does not include certifications as required by Rule 1.5.04. The application shall include a statement signed by an authorized representative of the person who prepared the application, plan, report, or document certifying, to the best of their knowledge, the accuracy of the information contained in the submittal. The application shall also include a statement signed by the facility owner or operator responsible for the preparation and submittal of the application, plan, report, or document certifying, to the best of their knowledge, that the submittal is a complete and accurate representation, and that it includes all known facts required therein. If the owner of the real property is different than the operator of the facility, then the property owner shall certify in the application that he allows the operation, and that he is the guarantor of proper closure of the facility.

**Rule 1.5.05 Zoning:**

- 11.** It shall be the applicant's responsibility to obtain any required local permits. The application does not provide documentation that the facility is in compliance with all local zoning requirements and ordinances. The application shall demonstrate that the facility has obtained all local permits and that the facility has the ability to operate in compliance with all local zoning requirements and ordinances.

**Rule 1.5.06 General Plan Requirements:**

- 12.** The plans and reports submitted with the application are not all stamped by a professional engineer, land surveyor or landscape architect as required by this Rule and R. I. General Law 5-51-1. In addition, the application does not contain all of the plans required by the Rules, including plans comprehensively identifying all activities at the facility and addressing the impacts of these activities on regulated operations. All plans and reports submitted with the application shall be stamped by a professional engineer, land surveyor or landscape architect as appropriate and in accordance with each professional's discipline. The application shall also include all plans required by the Rules, including plans comprehensively identifying all activities at the facility and addressing the impacts of these activities on regulated operations.

**Rule 1.5.07 Need:**

- 13.** The application does not demonstrate that the facility has met the criteria established in R.I. General Laws Section 23-18.9-8.1. The application shall demonstrate that the facility meets all relevant criteria established by regulation to protect human health and the environment.

**Rule 1.5.10(a) Closure Procedures General:**

- 14.** The application does not contain closure plans containing the information required in Regulation 1, Regulation 3 and Regulation 7. The application shall include closure plans in conformance with Regulation 1, Regulation 3 and Regulation 7.

Rule 1.5.10(b) Closure Procedures Financial Responsibility:

- 15.** A sufficient closure cost estimate was not provided in the application that takes into account the removal and disposal of the maximum quantity of material to be stored at the facility including, but not limited to, the transfer station, storage cells, Re-tech Plant, Wood Recovery Plant, Interim Processing Plant, unregistered Composting Area and all materials from the NEED Facility that are stockpiled or stored at any locations other than at 23 Green Hill Road in Johnston, Rhode Island. In addition, an adequate form of financial assurance was not included with the application. The application shall include a closure cost estimate which includes the maximum quantity of material to be stored at the transfer station, storage cells, Re-tech Plant, Wood Recovery Plant, Interim Processing Plant, unregistered Composting Area and all materials from the NEED Facility that are stockpiled or stored at any locations other than at 23 Green Hill Road in Johnston, Rhode Island that are owned, leased or otherwise in the control of the NEED officer, director or employee. The application shall also include a form of financial assurance sufficient to insure complete closure and post-closure monitoring of the facility assuming closure while at maximum capacity.

**Rule 1.6.00 Issuance, Renewal, and Conditions of Licenses and Registrations** - Insufficient information was submitted in the application to satisfy all requirements specified in Rule 1.6.00 as cited below:

Rule 1.6.01 General Issuance and Renewal of Licenses and Registrations:

- 16.** The application fails to show compliance with the Solid Waste Rules and Regulations. The application shall demonstrate how the Facility intends to comply with the Solid Waste Rules and Regulations.

Rule 1.6.03 Change of Ownership, Administration and/or Location:

- 17.** The application fails to address the change in the corporate officers of NEED. In March of 2001, the corporate officers were listed with the Rhode Island Secretary of State as Robert Colantuono, President; Howard Tighe, Vice-President; Emile F. Martineau, Esquire, Secretary; and Louis L. Vinagro, III, Treasurer. In the summer of 2001, NEED represented to a Hearing Officer at the DEM Administrative Adjudication Division that the corporate officers had changed and that Louis L. Vinagro, Jr. was now the President, Vice-President; Secretary and Treasurer. The records at the Rhode Island Secretary of State do not reflect that change. The application shall contain documentation of the corporate officers of the applicant.

Rule 1.6.04 Approval for New Areas and/or Services:

- 18.** The application fails to seek licenses or registrations for all of the services and operations at the facility that have been added or modified since the Consent Judgment dated October 5, 1990. The application shall include all new operations conducted at the facility and request licenses, registrations and Department approvals for all new and modified operations and services.

Rule 1.6.05(a) Separate Licenses or Registrations:

19. The regulations require separate licenses or registrations for solid waste management facilities or composting facilities which are located in separate geographical areas even though they are under the same management. The application shall provide the locations, quantities and nature of any and all materials from the NEED facility that are stockpiled or stored at any locations other than at 23 Green Hill Road in Johnston, Rhode Island that are owned, leased or otherwise in the control of any NEED officer, director or employee. The application shall request separate licenses or registrations for any such solid waste management facilities or composting facilities.

Rule 1.6.08 Inspections:

20. The facility is required to allow the Department reasonable opportunity to view the facility, examine records and obtain such information as may be required for the inspection, testing and investigation of the facility. Refusal to permit reasonable inspections, tests and investigations shall constitute grounds for denial of the license. NEED and its employees have repeatedly refused to allow the Department access to its facility and have intimidated, harassed and threatened Department personnel during inspections. The application shall demonstrate how the facility will accommodate Department inspections, testing and investigations, including Department inspections without notice. In addition, the application shall demonstrate how the facility will accommodate Department inspections, testing and investigations of all properties and locations (including properties other than 23 Green Hill Road) at which materials generated at NEED are stored or stockpiled. The application shall also demonstrate that the Department shall be afforded the opportunity by the applicant, licensee or registrant to examine facility records, including any and all on-site or off-site locations where records are kept.

**Rule 1.7.00 General Operating Standards** - Insufficient information was submitted in the application to satisfy all requirements specified in Rule 1.7.00 as cited:

Rule 1.7.08 Inspections:

21. All land, buildings, facilities and equipment used in the disposal, transfer or processing of solid waste must be available for inspection by the Department at any time. The application shall demonstrate how the facility will make itself available for Department inspections at any time, including Department inspections without notice. In addition, the application shall demonstrate how the facility will accommodate Department inspections of all properties and locations (including properties other than 23 Green Hill Road) at which materials generated at NEED are stored or stockpiled.

Rule 1.7.10 Dust Control:

22. The facility shall take suitable measures at all times to control dust at every composting facility or solid waste management facility, access roads to the facility and all other areas related to the Facility's operations. Department inspections have revealed that the unpaved areas of the facility frequently experience excessive dust problems indicating that the existing measures are inadequate. The application does not include improved measures, such as additional paving and more frequent implementation of dust control measures, to eliminate and prevent dust problems in the future that have been cited during past Department inspections. The application shall demonstrate effective measures to control dust at the facility, access roads to the facility and all other areas related to the facility's operation.

1.7.11 Control of Litter:

23. The Regulations require that measures be taken to eliminate the scattering of refuse. Department inspections have revealed recurring litter problems at the facility indicating that the existing measures are inadequate. The application does not include sufficient additional measures, such as fencing or more frequent implementation of litter control measures, to eliminate and prevent litter problems in the future that have been cited during past Department inspections. The application shall demonstrate effective measures to be taken at the facility to control litter including routine maintenance and other measures to insure general cleanliness of all areas related to the facility's operation.

Rule 1.7.15 Buffer Zones:

24. All composting facilities and solid waste management facilities shall be required to maintain a buffer zone that serves to mitigate nuisance impacts to human activities caused by dust, litter, odor, and noise from composting facilities or solid waste management facilities. The application does not include adequate information to demonstrate that the buffer zone surrounding the NEED Facility will mitigate nuisance impacts such as dust, litter, odor, and noise in conformance with this rule. The application shall include a buffer zone that is an area of undeveloped vegetated land retained in its natural undisturbed condition, or created to resemble a naturally occurring vegetated area, or approved equal, that is not used for any composting facility or solid waste management facility operations.

Rule 1.7.16 Active Gas Collection System:

25. Any solid waste management facility that stores waste materials containing gypsum on site over three (3) months shall install and maintain an active gas collection system approved by the Department. Construction and demolition waste accepted by this facility contains gypsum and has been stored onsite in excess of three (3) months. Therefore, an active gas collection system is required in accordance with Rule 1.7.16 and was not proposed in the application. The application shall demonstrate how the Facility will comply with this rule, which requires active gas collection, until the storage cells are eliminated and the Facility's operation is brought into compliance.

**Rule 1.14.00 Solid Waste Management Facilities or Activities located within the Environmental Management District (EMD) Deficiencies** - Insufficient information was submitted in the application to satisfy all requirements specified in Rule 1.14.00 as cited below:

Rule 1.14.02(a) Onsite Monitoring Plan Requirements, General Requirements:

26. The application did not include an adequate Onsite Monitoring Plan that described in detail all requirements described under this Regulation to address air, groundwater and surface water monitoring. All required onsite monitoring plans shall be included with the license application and shall address air, surface water, and groundwater quality concerns at each facility or solid waste management activity. In addition, all onsite monitoring plans shall include site plans and radius plans with the information required in this Rule and the information required in accordance with the Solid Waste Regulations for that type of facility or activity. All monitoring plans shall also include detailed sampling and analysis criteria including, but not limited to, a list of parameters, sampling frequency, analytical methods including detection limits, and sampling locations.

27. <sup>G</sup>Page 2, Section 1.0 Introduction, 1.1 General, Second Paragraph.

*“It is intended that this plan supplement existing approved operations plans currently on file with the Department only for purpose of onsite monitoring as required in the regulations. It is not intended that this plan serve to replace or supplement any information in regards to operation or activities contained in the aforementioned approved operating plan(s) for the solid waste management facilities for which this plan is being provided, except in the case where actual monitoring activities described in the existing monitoring plan are being modified as described herein*

The application, including this air and water monitoring plan, fails to clearly and comprehensively identify and include all monitoring requirements the facility is proposing that it wants the Department to evaluate as part of this application review. Prior approved documents not submitted with this renewal application are not being considered part of the application. The present application submittal, including this monitoring plan, has failed to satisfy all the requirements described under this rule to address the concerns for air, groundwater and surface water monitoring.

Rule 1.14.02 (a)(2) Site Plans:

28. The submitted Site Plan is illegible, and has no date, scale, elevation contours, or professional engineer stamp, as required. A comprehensible and legible Site Plan shall be submitted with the Onsite Monitoring Plan and contain the date, scale, elevation contours, and be stamped by a Professional Engineer.

Rule 1.14.02(b) Onsite Monitoring Plan Requirements, Air Monitoring Requirements:

29. The application did not include an Air Monitoring Plan that meets all requirements described under this Rule.

The Air Monitoring Plan shall include a detailed discussion in regards to the following:

- A. A list of pollutants that may be emitted by the facility, including the air toxics listed in Air Pollution Control Regulation No. 22 and Federal Hazardous Air Pollutants (HAPS) and criteria air pollutants.
- B. The length of the sampling period shall be specified.



- C. The Plan shall specify that EPA Method TO15 will be used for the sampling and analysis of volatile organic pollutants. If other types of pollutants are identified as potential emissions, the Plan shall identify the EPA methods designed to measure those pollutants.
- D. The date, time, sample location, sample identification number, canister and flow controller serial number, sample time “on” and “off”, initial and final pressure (mmHg) of the canister, and ambient temperature and pressure
- E. Sample collection procedures and holding times, equipment calibration procedures and use to be performed in accordance with EPA protocols
- F. Data and sampling information to be recorded on a chain of custody form
- G. A list of analytes that includes method detection limits (MDLs)
- H. Other parameters to be monitored onsite, such as wood dust, dust, carbon monoxide and methane.
- I. Rather than use Draeger Tubes as the “direct reading instrument” to measure hydrogen sulfide, the Department will require the use of a portable instrument with a detection limit of 1.0 ppb that continuously records hydrogen sulfide levels. The same independent qualified firm that will be conducting the quarterly air sampling and monitoring should utilize this portable instrument and record hydrogen sulfide levels at a variety of locations at the Facility, not just the four locations proposed in the plan.

In addition, the application shall include gas-monitoring wells installed between the storage cells and the boundary line of the Facility’s property to monitor for any subsurface gas that may migrate beyond the boundary. The wells shall be monitored until the storage cells are removed and the Facility is brought into compliance with current statutory and regulatory requirements.

Rule 1.14.02(c) Onsite Monitoring Plan Requirements, Water Monitoring Requirements:

**30.** The application did not include a Water Monitoring Plan that meets all requirements described under this Rule. The application shall include an acceptable groundwater monitoring plan, a discussion of how the facility will evaluate and quantify the contribution of pollutants to the surface water from the site, an acceptable list of water pollutants to be sampled, and wet weather sampling procedures.

In addition and as previously discussed in the Department’s March 26, 1999 comment package, the existing groundwater-monitoring network is inadequate. The up-gradient well is frequently found dry. The two (2) down gradient wells (MW10 and MW-11), as depicted on the site plan, are inadequate to intercept all of the potential contaminants in the groundwater that flows north and northeast towards Shun Pike and Cedar Swamp brook. The integrity of these wells is also questionable. In addition, the list of parameters for the groundwater quality testing is deficient. The list should include all parameters and the appropriate Method Detection Limits (MDLs) listed in Appendix A of the Solid Waste Regulations No. 2. The application shall address these deficiencies in the existing groundwater monitoring network.

The proposal to collect and sample one surface water sample from the influent to the onsite detention basin on an annual basis is inadequate and the list of parameters to be tested is deficient. The detention basin is inadequate and was built without Department approval of the design and engineering. The surface water should be sampled at least quarterly and tested for all parameters listed for Class B surface water in table 1.8(D)(2), on page 16 of the Water Quality Regulations. The background samples and the off-site samples should be collected on the same day. The application shall address these deficiencies.

Rule 1.14.04 (b) Distribution:

- 31.** All facilities shall provide written copies of the monitoring plan for distribution to the appropriate town halls, town libraries, the Department and HEALTH. The NEED Facility shall also provide an electronic copy of the monitoring plan to the Department and HEALTH. The application did not include an electronic copy of the monitoring plan nor did it indicate that written copies of the monitoring plan were distributed to the Johnston Town Hall, Library and HEALTH.

**Section II. Transfer Station Application Deficiencies**  
**Application Dated: August 1997**  
**Revised: August 1999**

In addition to the General Facility Deficiencies noted in Section I, the application for a transfer station license was deficient in that the application failed to satisfy all of the requirements in Solid Waste Regulation 1 and Solid Waste Regulation 3. Pursuant to Regulations 1.5.01; 1.7.00; 3.1.01; and 3.1.05, the application for transfer station license shall demonstrate the ability to comply with the requirements of both Regulation 1 and Regulation 3. Sections I and II of this comment package constitute the Department's response to the application for a transfer station license.

**Rule 3.1.00 Transfer Stations and Collection Stations** - Insufficient information was submitted in the application for a transfer station license to satisfy all requirements specified in Rule 3.1.00 as cited below:

Rule 3.1.03 Site Plan:

- 32.** Drawing #1 entitled Location Plan, dated 1997, shows the future expansion of the transfer station. The submitted license application does not sufficiently explain this expansion and states that no increase in maximum capacity is intended. Additional information shall be provided to explain the Facility's plans for future expansion.

Rule 3.1.03 (q) Site Drainage Facilities:

33. The application does not adequately describe the existing on-site drainage conditions or future proposed controls. Currently, the facility does not have adequate drainage controls. The Site Plan in the transfer station portion of the application shall be revised to contain site drainage facilities to adequately address on-site drainage conditions.

Rule 3.1.05 (b)(5) Dust control program:

**34. <sup>C</sup>Page 9, Section F. Dust Control Program,  
Second Sentence.**

*“Additionally, other areas of disturbance will be landscaped and planted as detailed on the attached landscape plans, sheet 9 of Enclosures.”*

As a dust control measure, the application refers to landscaping and planting of other areas as described in the landscape plans, but does not provide a schedule for implementation of the above measures. The application shall provide a time schedule for planting and landscaping of the areas described in the landscape plans.

In addition, the application shall identify all other dust control measures to adequately control dust, including location of proposed paving, as well as a schedule for implementing the proposed measures.

Rule 3.1.05(b)(22) Operating Plan:

35. The application does not adequately describe the size and locations of the recyclable materials storage areas. In addition, specific timeframes describing how long recyclable materials will be stored on-site are not included. The application shall describe the size and locations of the recyclable materials storage areas. The application shall also set forth specific timeframes describing how long recyclable materials will be stored on-site.

Rule 3.1.06 Financial Assurance and Closure Procedures:

36. The application does not provide a sufficient closure cost estimate and financial assurance mechanism for the maximum quantity of solid waste to be stored at the transfer station. The application shall include a closure cost estimate and financial assurance mechanism for the maximum quantity of solid waste to be stored at the transfer station. The applicant shall also post the full amount of the financial assurance as a pre-condition of the license renewal.

**Rule 3.2.00 Transfer Stations and Collection Stations Operating Standards** - Insufficient information was submitted in the application to satisfy all requirements specified in Rule 3.2.00 as cited below:

Rule 3.2.02 Waste Storage:

37. The application shall document how unprocessed combustible waste shall be stored for no more than forty-eight (48) hours at the Facility.

Rule 3.2.03 Wastewater and Leachate:

**38. <sup>C</sup>Page 17, Section V. Leachate,**

## **Second Paragraph.**

*"Site grading shall be such that rain water and site run off will be channeled away from the buildings to minimize the amount of run off collected and ultimately disposed."*

All water used in processing the solid waste and cleaning the facility, as well as all leachate from the refuse collected in storage pits and transfer areas, shall be disposed of in a manner that will not pollute any source of private or public water supply, or any of the waters or groundwaters of the State. The application shall include a description of existing leachate controls and collection systems, and it shall propose measures to adequately address the leachate from the waste stored onsite.

### Rule 3.2.05 Structures:

**39.** The application shall document how all transfer operations and refuse storage shall be conducted within the confines of a protective structure.

### Rule 3.2.06 Equipment Failure and Shutdown Provisions:

**40. <sup>C</sup>Page 11, Section I. Substitute Transfer Arrangements,  
First Paragraph.**

*"If an incident occurs, leaving the facility inoperable, provisions will be made to haul refuse directly to a properly licensed solid waste disposal facility or another approved transfer station by means of NEED vehicles or other contract haulers. The alternate licensed solid waste management facility to be used shall be the nearby Rhode Island Solid Waste Management Corporation's Central Landfill."*

The application shall not state that the Rhode Island Resource Recovery Corporation's Central Landfill (formerly the Rhode Island Solid Waste Management Corporation) is the alternate licensed solid waste management facility to be used since NEED utilizes Central Landfill as their primary disposal facility.

The application does not designate an alternate method of disposal with another solid waste management facility in the event of equipment failure or forced shutdown. The application shall include the name and address of the alternate solid waste management facility.

**Section III. "Re-Tech" Plant/Recyclable Material Storage Cells/  
Wood Recovery Plant Deficiencies (C&D Debris Processing Facility)  
Application dated: August 1997  
Revised: April 2001**

Refuse Disposal Act: Facilities that process construction and demolition debris shall define the amount of material to be accepted and processed at the facility per day in their application.

41. The application fails to provide the amount of material the NEED facility will accept and process on a daily basis. The application shall include the maximum daily tonnage amount.

R.I.G.L 23-18.9-7:

42. No construction and demolition debris processing facility shall be issued a license unless it has submitted a fire protection plan that has been approved by the local fire chief, or his or her designee of the district in which the facility is located. The application does not include a fire protection plan approved by the fire chief of the Town of Johnston. The application shall include a fire protection plan approved by the Fire Chief of the Town of Johnston.

**Rule 1.4.00 Prohibitions** - Insufficient information was submitted in the application to satisfy all requirements specified in Rule 1.4.00 as cited below:

Rule 1.4.03(b) Air Standards:

43. The application does not discuss if it has been determined whether or not permits are required for engines on all equipment at the facility under Air Pollution Control Regulation No. 9. The Department is providing an information packet entitled, "Sources Required to File Applications for Approval to Construct, Install or Modify" in order to assist the NEED Facility in making this determination. The application shall demonstrate that air permits are not required or, if required, that such permits have been obtained.

Rule 1.4.03(c) Air Odors:

44. A solid waste management facility or composting facility, whether licensed or unlicensed, shall not emit or cause to be emitted into the atmosphere any air contaminant or combination of air contaminants which creates an objectionable odor beyond the property line of said facility. The Department has issued several Notices of Violation (NOVs) pertaining to objectionable odors migrating off-site. The application shall propose measures to eliminate the odor problems beyond the property line.

Rule 1.4.05(b) Facilities Prohibited from Operating:

45. Any facilities that accumulate material speculatively and/or accept or store co-mingled recyclable materials and operate outside the confines of a closed structure are prohibited from operating. The current operation of the storage cells and the stored material at the "Re-Tech" and Wood Recovery Plants are speculatively accumulated material and as such are illegal landfills and prohibited by this Rule. The application shall demonstrate how the facility will store materials in compliance with the time limits in the regulations and statute.

**Rule 1.5.00 General Requirements and Procedures Deficiencies** - Insufficient information was submitted in the application to satisfy all requirements specified in Rule 1.5.00 as cited below:

Rule 1.5.08 Equipment Addition:

46. <sup>D</sup>Page 15, Section II – Z. Temporary Equipment,  
First Paragraph.

*“From time to time temporary equipment is brought on site (and utilized to process recyclable materials) to account for shortcomings of existing on site equipment (i.e. equipment breakdowns, etc.)”*

Plans must be submitted to the Department and Department approval granted prior to the addition of any equipment to an existing facility. The application does not include a detailed description of the above mentioned temporary mobile equipment. The application shall detail each piece of equipment in use at the facility and any equipment to be used on a temporary basis.

**Rule 7.1.00 General Information & Required Plans Deficiencies** – Insufficient information was submitted in the application to satisfy all requirements specified in Rule 7.1.00 as cited below:

Rule 7.1.01(c) General Information:

**47. <sup>D</sup>Page 16, Section III - A. Material (Recyclables) Storage, Second Paragraph.**

*“Combustible solid waste or putrescible material shall be stored in containers. Once a container is full it will not be held for more than forty-eight (48) hours at the Facility.”*

Non-construction and demolition debris waste shall not be accepted at the construction and demolition processing operations in accordance with this rule. Department inspections have revealed that significant amounts of non-construction and demolition waste (tires, carpets, used furniture, white goods, etc) are in fact being accepted at the Re-Tech Plant. The application did not propose adequate, specific measures to screen the incoming waste and divert it to the Transfer Station operations. The existing monitoring system is insufficient. The application shall describe detailed measures to be implemented at the facility to prevent the receipt of non-construction and demolition debris at the construction and demolition debris facility.

Rule 7.1.01(d) General Information:

**48.** No license or registration shall be issued or renewed if the facility has any existing violations of these Rules and Regulations during the time of application or request for renewal. The Department is authorized to deny a license, where it finds there has been a failure to comply with regulations established by the Department, or where the applicant, licensee, or registrant is not in compliance with any approved operating plan or engineering plans adopted pursuant to these Rules and Regulations. The Department has alleged numerous violations of the statutes and regulations by this facility and the Department has issued a number of Notices of Violation (NOVs) to the Facility. Many of these violations remain unresolved. The application shall satisfactorily address past and ongoing violations.

Rule 7.1.01 (f) General Information:

- 49.** All construction and demolition debris processing facilities must demonstrate, through records maintained at the facility, and provided to the Department (upon request), that seventy-five percent (75%) of all material received by the facility are processed and removed from the site within six (6) weeks of receipt on a continuous basis, and that in no case stores material on site for over three (3) months. The application does not include a record keeping system that meets the timeframes and material removal percentages outlined above. The application shall include a record keeping system that documents that the facility meets the timeframes specified in this Rule.

Rule 7.1.01 (g) General Information:

- 50.** All solid waste management facilities that process or separate construction and demolition debris and generate screenings and/or wood chips must comply with Rule 7.3.00. A detailed sampling and analysis plan shall be included in the application for the screenings, woodchips and the “products” that are generated by the Facility. In addition, a detailed sampling and analysis plan shall be included in the application for the hydromulch and Econologs that are produced from the C&D wood waste that is received by the NEED Facility.

Rule 7.1.05(b) Operating Hours:

**51. <sup>D</sup>Page 5, Section II - B. Operating Hours.**

The application shall include specific times when the following activities are performed, including but not limited to: receiving C&D waste, processing C&D waste, recycling, routine maintenance and house cleaning and trucking of processed material, recyclable materials, recyclables and residuals.

Rule 7.1.05 (c) Operating and Design Capabilities:

- 52.** The application shall satisfactorily clarify the operating and design total daily tonnage capabilities of the Facility.

Rule 7.1.05(d) Operating Plan Types of materials to be accepted, processed, stored, recycled and/or disposed of at a licensed facility:

**53. <sup>D</sup>Page 7, Section II - D. Types of Materials,  
First Paragraph.**

*“Based on experience, typical composition of refuse to be received at the Wood Recovery Facility should consist of the following:*

<i>Recyclable wood products</i>	<i>60-65%</i>
<i>Rock &amp; concrete (masonry prod.)</i>	<i>15-20%</i>
<i>Dirt/fines</i>	<i>10%</i>
<i>Miscellaneous metals</i>	<i>5%</i>
<i>Mixed non-recyclables</i>	<i>0-10%”</i>

Department inspections have revealed that the “Re-Tech” Plant accepts a significantly higher percentage of non-recyclables than illustrated above. Records shall be provided with the application to demonstrate the validity of the above figures.

The application shall contain a detailed description of all materials accepted, processed, stored, recycled and/or disposed by the NEED Facility.

Rule 7.1.05 (f) Dust Control Program:

**54. <sup>D</sup>Page 8, Section II – F. Dust Control Program.**

*“To reduce dust and odors at the “Re-Tech” Plant, laborers will periodically wet down and clean the areas. A series of water cannons are available to minimize dust over large potential problem areas.”*

Department inspections have revealed that the Facility has frequently experienced excessive dust problems. The above mentioned measures have not sufficiently alleviated the dust problem and the application does not propose any additional dust control measures or controls. The application shall demonstrate that the dust control measures at the facility are adequate to control excessive dust or propose additional dust control measures and/or controls.

Rule 7.1.05 (g) Odor Control Program:

**55. <sup>D</sup>Page 8, Section II - G. Odor Control Program,  
First Paragraph.**

*“The nature of recyclable materials is such that under normal operations odorous material, which can cause unpleasant working conditions, would most likely not be present. In the event that odorous materials are identified, these materials will be processed by the end of each workday. In no case will odors from this operation be allowed to leave the site.”*

The Department has issued several Notices of Violation (NOVs) pertaining to objectionable odors (rotten egg and burning wood type odors) migrating off-site. Based on the issuance of the NOVs and continued objectionable odor violations, the measures proposed above have not alleviated the odor problems. Further, the application states that odors will not be allowed to leave the site, but does not state how the operation will prevent odors from leaving the site. The application shall propose additional measures and/or controls to address this issue.

Rule 7.1.05 (k) Operating Plan - Final disposal quantities and arrangements for non-recyclables and processing residue:

**56. <sup>D</sup>Page 9, Section II – I. Disposal Quantities/ Non-Recyclables.**

*“The nature of the C&D materials processed at the Facility is such that a minimal amount of the residual is classified as non-reclaimable solid waste. For purposes of developing an estimate, and based on previous experience with operations of the facility, it is estimated that the non-reclaimable component constitutes less than 1% of the incoming C&D material waste stream.”*



Department inspections have revealed that the "non-reclaimable solid waste" constitutes a significantly higher percentage of non-recyclables than illustrated above. Records shall be provided with the application to demonstrate the validity of the above figure.

**57. <sup>D</sup>Page 10, Section II – N. Final Disposal Arrangements for Non-Recyclables, First Paragraph.**

*“All processed refuse derived from processing of construction and demolition material shall be transported to a properly licensed solid waste disposal facility for final disposal.”*

The application shall describe the type of materials that cannot be recycled and shall provide the names and addresses of the licensed solid waste management facilities where said materials will be disposed.

Rule 7.1.05(n) Operating Plan Description of program for providing records containing the date, time, weight of construction and demolition debris to be processed and registration of each vehicle unloading or loading materials at the facility:

**58. <sup>D</sup>Page 12, Section II – R. Special Waste Handling Procedures Section, First Paragraph.**

*“All incoming loads of construction and demolition material shall be continuously monitored via a manned elevated inspection platform at the NEED, Inc. scale facility. Vehicles determined to have restricted wastes shall not be weighed and, therefore, not allowed into the facility. Records of inspections of incoming loads will be maintained. In addition, continuous inspection by equipment operators will take place upon deposition of construction and demolition material.”*

The application does not address the records requested in Rule 7.1.05(n). The application only refers to "inspections" and "records of inspections". The rule requires a description of a program for maintaining records of each vehicle loading or unloading any material at the facility. The application shall describe the record keeping program at the facility which shall include the date, time, weight of construction and demolition debris to be processed and registration of each vehicle unloading or loading materials at the facility. In addition, the program shall include a detailed description of the information that will be recorded during the vehicle inspections, such as date, time, weight, registration of vehicle, and a description of any rejected load.

The application shall also state that the record keeping system will include where the waste was generated (in the State of Rhode Island or out-of-state) and the specific names and addresses of all destinations for all waste shipped from the facility to ensure compliance with R.I.G.L. 23-19-13.1.

Rule 7.1.05(p) Operating Plan Fire control and prevention provisions approved by the local fire chief including a contingency plan for fires in storage areas and/or unprocessed stockpile areas and Rule 7.2.06 Fire Protection:

**59. <sup>D</sup>Page 11, Section II – P. Fire Control and Prevention.**

No facility that processes construction and demolition debris shall be issued a license, registration, or renewal unless it has submitted a fire protection plan that has been approved by the local fire chief, or his or her designee, of the district in which the facility is located. A fire prevention, protection, and control plan approved by the fire chief of the Town of Johnston was not included in the application. The application shall include a plan for fire prevention, fire protection and fire control and said plan shall be approved by the Johnston Fire Chief or his designee prior to submittal of the plan to the Department. The application shall include documentation of the approval by the Johnston Fire Chief or his designee.

Rule 7.1.05(q) Operating Plan Methods describing how non-processible waste, hazardous waste and waste not authorized by the Department will be identified, handled and removed from the facility:

**60.** The application does not include adequate monitoring measures for sorting the non-processible waste, hazardous waste and waste not authorized by the Department in the incoming construction and demolition waste. Screening of only the tops of the loads upon arrival is inadequate to identify unauthorized waste within a load. Department inspections have revealed significant amounts of unauthorized waste accepted by the “Re-Tech” Plant. Furthermore, inspections noted that the unauthorized waste is being deposited into the storage cells. The application shall include a description of the measures to be implemented to identify, handle and remove non-processible waste, hazardous waste and waste not authorized by the Department from the incoming construction and demolition waste stream.

Rule 7.1.05(r) Operating Plan Methods describing how adulterated wood waste [treated wood, painted wood, coated wood and any other wood that is not clean] will be identified and separated from the waste stream being processed, such that it will not be recycled and re-used with unadulterated wood waste:

61. The application does not describe the methods utilized by the NEED Facility to identify and separate the adulterated wood (for example, painted wood and treated wood) versus clean wood from the waste stream. In addition, the Regulations prohibit adulterated wood waste from being recycled and reused with unadulterated wood waste. Department inspections have revealed the mixing of adulterated wood waste and unadulterated wood waste in the Wood Recovery Plant.

Rule 7.1.05 (s) Identification of how “recyclable materials” and “recyclables” which cannot be marketed will be disposed of:

**62. <sup>D</sup>Page 13, Section II - T. Non-Marketable Recyclable Disposal Arrangements.**

*“A reliable market for the separated components of construction and demolition materials shall be maintained. The components (i.e., rock, soil, aggregate, etc...) are naturally occurring materials and as such, can be utilized as general fill material, landfill cover, roadway subbase and other suitable uses.”*

If the "rock, soil and aggregate, etc . . ." are components of C&D screenings, or are mixed with other C&D materials, then they are part of the C&D waste stream and are regulated solid waste. Any use of C&D screenings (ie. for fill, landfill cover, roadway, base, etc.) requires prior approval for each such use from the Department in accordance with the Solid Waste Regulations. The Department has not approved of the use of NEED's C&D screenings as fill material, landfill cover, roadway sub-base and other uses so the C&D screenings shall not be used as such. Accordingly, the application does not describe how non-marketable recyclables and recyclable material will be disposed. The application shall include a description of how non-marketable recyclables and recyclable material will be disposed of without reference to uses not approved by the Department.

The application shall provide details of the disposal arrangements for all non-marketable recyclables and recyclable materials such as, but not limited to, adulterated wood, roof shingles, gypsum, and plastics. The application shall provide the names and addresses of specific disposal locations (including out of state disposal facilities) for non-recyclables and residuals.

Rule 7.1.05 (t) Sampling and testing plan for processed material containing that information required by Rule 7.3.00 of these Regulations:

63. A detailed sampling and analysis plan shall be included in the application for the screenings, woodchips, and all of the “products” that are generated by the Facility.

Rule 7.1.05(u) Operating Plan Identification of proposed markets for “recyclable materials” and recyclables”:

**64. <sup>D</sup>Page 5, Section II – A. Operation Description, “Re-Tech” Plant, Second Paragraph, Forth Sentence.**

*“Recyclable materials are stockpiled and marketed through private outlets”.*

The application shall identify these "private outlets" and any other proposed markets. In addition, the application shall provide the names and addresses of destinations for the recyclables. In the event that the facility determines this information to be a "trade secret" as that term is used in the Rhode Island Access to Public Records Act (R. I. Gen. Laws § 38-2-1 et seq.), then the facility shall inform the Department in writing and the specific information as to names and addresses of the buyers will be kept in a distinct file marked "Trade Secret" and shall not be made available to the public as a public record.

**65. <sup>D</sup>Page 13, Section II – V. Markets for Recyclables,  
First and Second Sentences.**

*"A reliable market for the components of construction and demolition materials shall be maintained. These components will be sought for reclamation through private markets and outlets."*

The application shall identify the "private markets" and the names and addresses of destinations for these recyclable materials.

Rule 7.1.05 (v) Identification of provisions or methods of solid waste and leachate containment and Rule 7.2.03 Wastewater and Leachate:

**66. Page 13, Section II – U. Solid Waste/Leachate Containment,  
First Sentence.**

*"There will be no leachate generated at the facility".*

Leachate will be generated at the facility. The term "leachate" is defined in Reg. 1.3.102 as "a liquid that has percolated through, or originated in solid waste and is presumed by these Rules and Regulations to contain dissolved or suspended materials from solid waste." The operations described in this application generate such liquid. Therefore, the application shall include provisions or methods to address any leachate from water used in processing, cleaning and dust control, as well as, leachate from any exposed waste in stockpiles and storage cells. In addition, the application shall include provisions and methods for the containment of solid waste.

Rule 7.1.05 (x) Erosion/Sedimentation Control Plan:

**67.** The application shall include measures and controls to prevent erosion and sedimentation and surface water pollution. In addition, the Facility has not obtained a RIPDES Permit from the DEM Office of Water Resources. A RIPDES permit is required for this Facility, given the size of the disturbed areas on the site and storm water flow from the Facility (non-point contributing source) offsite towards Cedar Swamp Brook and to the Simmons Reservoir.

Rule 7.1.06 (c) Measures taken to remove all remaining refuse and residue:

**68. <sup>E</sup>Closure Plan, Section D. Clean-up After Closure,  
First Sentence.**

*“When the Re-Tech is closed to any further C&D recycling, all C&D materials will be removed from the area of the Re-Tech facility.”*

The application shall include provisions for removing all waste associated with the C&D facility. This includes, but is not limited to, waste at the Re-Tech facility, recyclable material storage cells, Wood Recovery Plant and all materials from the NEED Facility that are stockpiled or stored at any locations other than at 23 Green Hill Road in Johnston, Rhode Island.

Rule 7.1.06(f) Closure Plan Methods of protecting ground and surface water:

**69. <sup>E</sup> Closure Plan, Section G. Ground and Surface Water Protection.**

The closure plan shall describe specific measures to protect the groundwater and surface water including, but not limited to, Cedar Swamp Brook and Simmons Reservoir during closure.

Rule 7.1.06 (h) A Closure Fund or Closure Bond shall be established to ensure proper closure of the facility:

**70. <sup>E</sup> Closure Plan, Section I. Closure Costs and Appendix A. Closure Estimate,**

The one hundred and fifty (150) tons of C&D waste proposed for removal and disposal in the estimate is inadequate. The application shall include a closure cost estimate and closure fund sufficient to provide for the third party removal and disposal of all waste at the facility including the Re-Tech Plant, recyclable material storage cells, Wood Recovery Plant and all materials from the NEED Facility that are stockpiled or stored at any locations other than at 23 Green Hill Road in Johnston, Rhode Island.

**Rule 7.2.00 Facilities that Process Construction and Demolition Debris - Operating Standards** - Insufficient information was submitted in the application to satisfy all requirements specified in Rule 7.2.00 as cited below:

Rule 7.2.02(a) Storage:

- 71.** The application does not include an adequate closure cost estimate or closure fund for a third party removal and disposal of all waste at the “Re-Tech” Plant, Wood Recovery Plant and in the storage cells, berms and all materials from the NEED Facility that are stockpiled or stored at any locations other than at 23 Green Hill Road in Johnston, Rhode Island. In addition, the application does not include a maximum volume of processed and/or unprocessed material that may be stored on-site or how the NEED Facility intends to bring the storage cells into compliance with statutory and regulatory requirements. A maximum storage volume was not provided in the application as the basis for the closure cost estimate. The application shall include an adequate closure cost estimate and closure fund for removal and disposal of all waste at the “Re-Tech” Plant, Wood Recovery Plant and in the storage cells, berms and all materials from the NEED Facility that are stockpiled or stored at any locations other than at 23 Green Hill Road in Johnston, Rhode Island. The application shall also include a maximum volume of processed and/or unprocessed material that may be stored on-site. The application shall also include a closure cost estimate and closure fund based upon the maximum volume of processed and/or unprocessed material that may be stored on-site.

Rule 7.2.02(b) Storage:

- 72.** All construction and demolition debris processing facilities must demonstrate, through records maintained at the facility, and provided to the Department that seventy-five percent (75%) of all material received by the facility is processed and removed from the site within six (6) weeks of receipt on a continuous basis, and that in no case stores material on site for over three (3) months. The application does not include a record keeping system that meets the timeframes and material removal percentages outlined above. The application shall demonstrate through a record keeping program that seventy-five percent (75%) of all material received by the facility will be processed and removed from the site within six (6) weeks of receipt on a continuous basis. The application shall also demonstrate through a record keeping program that no material will be stored on site for more than three (3) months.

Rule 7.2.02(c) Storage:

- 73.** The application does not adequately provide designated storage area locations for processed and/or unprocessed construction and demolition debris. The Department is aware of unlicensed storage/stockpile facilities at locations other than 23 Green Hill Road. The application shall designate any and all existing and future locations at which processed or unprocessed C&D is currently or proposed to be stockpiled or stored. Such location(s) shall be part of the application and shall also be subject to and must comply with all Regulations as a part of the Facility. The application shall describe the areas at the facility designated for storage of processed and/or unprocessed construction and demolition debris.

In addition, Department inspections have revealed that the existing storage cells exceed the twenty (20) foot height and fifty (50) foot width requirements required in this Rule. The required fifty (50) foot separation between stockpiles does not exist. Inspections have also revealed that processed and/or unprocessed construction and demolition debris at the facility is being covered with construction and demolition debris screenings. The application shall describe how the facility will maintain the stockpiles at heights of less than twenty (20) feet and widths of less than fifty (50) feet. The application shall describe how the facility will maintain the required fifty (50) feet of separation between the stockpiles and between the stockpiles and buildings or other structures. The application shall demonstrate how the facility will meet the requirement that processed and/or unprocessed construction and demolition debris at the facility shall not be covered with soil or other materials.

Rule 7.2.03 Wastewater and Leachate:

**74.** The application does not include methods and specific measures to address any leachate from water used in processing, cleaning, and dust control, as well as, leachate from any exposed waste in stockpiles and the storage cells. The application does not demonstrate that leachate will be disposed of in a manner that will not pollute any source of private or public water supply, or any of the waters or groundwaters of the state and be disposed in accordance with State and Federal laws and regulations. The application shall include methods and specific measures to address any leachate from water used in processing, cleaning, and dust control, as well as, leachate from any exposed waste in stockpiles and the storage cells. The application shall demonstrate that leachate will be disposed of in a manner that will not pollute any source of private or public water supply, or any of the waters or groundwaters of the state and be disposed in accordance with State and Federal laws and regulations.

Rule 7.2.05 Buffer:

**75.** The application shall demonstrate that a buffer zone, or approved alternative measure(s), has been identified and maintained between all processed and unprocessed construction and demolition debris stockpiles, processing activities and the property line of the facility. The buffer zone shall be of sufficient distance to address dust, odors, litter, or any another concern or condition identified by the Department.

Rule 7.2.06 Fire Protection:

**76.** No facility that processes construction and demolition debris shall be issued a license, registration, or renewal unless it has submitted a fire protection plan that has been approved by the local fire chief, or his or her designee, of the district in which the facility is located. A fire prevention, protection, and control plan approved by the fire chief of the Town of Johnston was not included in the application. The application shall include a plan for fire prevention, fire protection and fire control and said plan shall be approved by the Johnston Fire Chief or his designee prior to submittal of the plan to the Department. The application shall include documentation of the approval by the Johnston Fire Chief or his designee.

Rule 7.2.06 (b):

**77.** The application shall demonstrate that either an adequate supply of water under pressure or the equivalent of cover material for use exclusively in fighting fires is located within 1000 feet of the facility and storage stockpiles. Cover material for the purposes of extinguishing a fire shall be required in the event that the construction and demolition debris is stored outside the confines of a protective structure. Other equivalent measures may be proposed in the application; however, they require approval by the Department and the local fire chief.

Rule 7.2.06 (c):

**78.** The application shall demonstrate that all facility equipment including, but not limited to dozers and front end loaders, is supplied with fire extinguishers.

Rule 7.2.07 Equipment Failure and Shutdown Provisions:

**79. <sup>D</sup>Page 3, Section II – A. Operational Description, Second Paragraph.**

*“Due to the nature of the business and the unpredictability of the incoming waste stream, it may be required that loads which can not be processed by the Re-Tech Plant (either due to equipment downtime or capacity shortfalls) would be sent directly to the Cells”.*

All facilities shall have an alternate method of disposal, approved in writing by the Department, with another solid waste management facility for use in the event of equipment failure or forced shutdown. The application does not provide the name and address of an alternate licensed solid waste management facility for disposal. The application states that if an equipment failure or shutdown occurs, then the unprocessed waste will be placed directly into the storage cells. This activity is prohibited by the Regulations and as such is not an appropriate option in the event of equipment failure or shutdown. The application shall address each of the issues raised in this paragraph.

The application shall also describe how the equipment failure or forced shutdown will not result in the storage of material in exceedance of the maximum storage capacities approved by the Department pursuant to Rule 7.2.02.

Rule 7.2.08 Closure Fund Agreement of Closure Bond:

**80. <sup>E</sup>Closure Plan, Appendix A. Closure Estimate, Second Paragraph, Second Sentence.**

*“Additionally, it shall be assumed that closure of the facility will include disposal of 150 tons of C & D materials.”*



The one hundred and fifty (150) tons of C&D waste proposed for removal and disposal in the closure estimate is inadequate. The application shall include closure cost estimate and closure fund sufficient to provide for the third party removal and disposal of all waste at the facility including the “Re-Tech” Plant, Wood Recovery Plant, recyclable material storage cells and all materials from the NEED Facility that are stockpiled or stored at any locations other than at 23 Green Hill Road in Johnston, Rhode Island.

**Rule 7.3.00 Construction and Demolition Debris: Reuse, Sampling and Testing Requirements**

- Insufficient information was submitted in the application to satisfy all requirements specified in Rule 7.3.00 as cited below:

Rule 7.3.00 Re-use, Sampling, and Testing:

**81. <sup>D</sup>Pages 3 & 4, Section II – A. Operational Description,  
Fourth Paragraph.**

*“Materials being removed from the cells are processed in the Wood Recovery Plant. Due to the process of being held for extended periods in earthen storage cells, the nature of the excavated materials are primarily soil products and various ferrous and non-ferrous metal products.”*

The “products” (exclusive of the ferrous and non-ferrous metal products) generated by the Wood Recovery Plant are wood and C&D screenings. The reuse, sampling and testing of said products shall therefore comply with Rule 7.3.00. The application shall demonstrate how the wood chips and screenings are to be reused, sampled and tested. Reuse of these materials not in compliance with Rule 7.3.00 constitutes illegal disposal of solid waste that may be subject to enforcement action.

Rule 7.3.01 (b) General Information:

**82. <sup>D</sup>Page 22, Section IV – E. Funding Requirements,  
Last Sentence.**

*“The cost of the Analytical Account has been determined to be \$2,000.00.”*

The amount proposed for the Analytical Account is inadequate. The amount required in this fund shall be indicated in the facility operating plan and shall be based on the number of tests required for the quantity of materials processed or separated at the facility. The application shall comply with the sampling and testing requirements set forth in 7.3.02 and 7.3.03 and propose an amount that is sufficient for at least two (2) rounds of sampling.

Rule 7.3.02 Screenings: Reuse, Sampling, and Testing Requirements and Rule 7.3.03: Wood Chips: Reuse, Sampling and Testing Requirements:

**83. <sup>D</sup>Page 19, Section IV – A. General,  
Second Paragraph, First Sentence.**

*“Currently, the Facility utilizes processed recyclable material end products as cover material for the cells, at the Solid Waste Management Corporation’s Central Landfill Facility for alternate daily cover and plantable material uses.”*

The Department has not given written approval as required by these rules for the use of processed recyclable material (screenings and/or wood chips) as alternate daily cover, “plantable material uses” or hydromulch. In addition, use of this material to cover C&D at the Facility is in violation of Rule 7.2.02(c).

Recent analytical results for the source stockpiles of “plantable soil” confirm that these materials exceed the contaminant levels in the Department’s Residential Direct Exposure Criteria for unrestricted soil. The “plantable soil” analytical results also exceed the standards set for the material to be used as alternate daily cover at Central Landfill. The application shall describe how the facility will comply with the sampling and testing requirements set forth in 7.3.02 and 7.3.03. In addition, the application shall document how the facility intends to reuse the screenings and wood chips and that the facility will obtain Department approval prior to any reuse of screenings and wood chips.

If any wood chips are intended to be used for fuel for boilers or wood-fired power plants, then the application shall provide the names and addresses of each such wood fuel facility. In the event that the facility determines this information to be a "trade secret" as that term is used in the Rhode Island Access to Public Records Act (R. I. Gen. Laws § 38-2-1 et seq.), then the facility shall inform the Department in writing and the specific information as to names and addresses of the buyers will be kept in a distinct file marked "Trade Secret" and shall not be made available to the public as a public record.

**84. <sup>D</sup>Page 21, Section IV – D. Frequency of Analysis,  
First Sentence.**

*“Sampling and Analysis shall be performed on a bi-annual basis, or more frequently, if the receiving facility requires.”*

The facility has the capacity of processing a significant amount of C&D waste daily. The application shall therefore propose adequate initial sampling to establish a baseline for end-use evaluation. In addition, the Department is requiring that routine quarterly sampling be performed, at a minimum, due to the significant amount and variability of material processed at this facility. A sampling and analysis plan with baseline sampling and at least quarterly sampling and analysis shall be submitted with the application for reuse of materials processed at this facility.

**Section IV. Intermediate Processing Center Deficiencies:  
Application dated: August 1997**

Rule 1.3.111 Materials Recovery Facility (MRF) or Intermediate Processing Facility (IPF):

- 85.** The Intermediate Processing Center (IPC) does not comply with the definition of a MRF or IPF. Although the IPC does process “recyclable materials”, Department inspections have revealed unloading and stockpiles of wood waste, including adulterated wood waste, at the IPC. This co-mingled adulterated wood waste is not classified as “recyclable materials” or as “source segregated materials”. The application shall include a detailed description of all the activities at the Intermediate Processing Center and demonstrate that the activities comply with Rules 1.00, 3.00 and 7.00.

**Section V. Vinagro Farms Compost Facility**

- 86.** This compost facility does not qualify as an agricultural composting facility as determined by the DEM Office of Agriculture and Resource Marketing on May 27, 1998 and as so notified in the Department’s previous comment package dated March 26, 1999. The activities at the Vinagro Farms Compost Facility are subject to Rules 1.00 and 8.00 of the Solid Waste Regulations and the application submittals to date have not addressed these requirements. The existing compost activities are therefore unregistered and in violation of Rules 1.00 and 8.00 and shall cease until proper approval is obtained. An application request shall meet the requirements for a composting registration as set forth in Solid Waste Rules 1.00 and 8.00 if it is the intention of the facility to conduct future composting activities.